IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)
MONDAY, THE TWENTIETH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR
PRESENT
THE HON'BLE MR JUSTICE V.ESWARAIAH
WRIT PETITION NO : 13173 of 2003
AND
CONTEMPT CASE NO.256 OF 2004

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W.P.No.13173 of 2003:

Between:

P.R. Sundar Raju,S/o. Raju
P.G.T. Social in A.P.R.School, (BC. Boys), Pennabobilam,
at Uravakonda, Anantapur Dist.

..... PETITIONER

AND

1 The Secretary,A.P.Residential Educational Institution Society
Hyderabad.
2 The Principal, A.PR.School (BC Boys)
Peannabobilam, Anantapur Dist.
3 The Government of A.P. rep by its Principal Secretary
MASUD Dept. Secretariat, Hyderabad.
4 The Municipal Commissioner
Anantapur Municipality, Anantapur.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ order or direction more in the nature of Mandamus declaring that the petitioner is entitled to be relieved from A.P.R. School (BC.Boys), Pennahobilam pursuant to G.O. Rt.No.206 MA&UD dt.20-2-2003 and its consequentialProc.L.Dis.No.18528/2002 -K3 dt.4-3-2003 issued by the Director of Municipal Administration, Hyderabad as to enable the petitioner to join in Anantapur Municipality in the existing B.Ed.,Asst.(Social)Vacancy with all consequential benefits by holding the action of the respondent No.1 in not relieving the petitioner i.e., The Secretary, A.P.R.E.I.Society, Hyderabad. from A.P.R. School (BC.Boys), Pennahobilam on the ground that the petitioner has to resign the post in the society while relieving similarly situated Smt. M. Nirala, PGT in Social, A.P.R.E(C0.Edn0 Venkatagiry of Nellore Dist in proc.1705/03-1/98/2000 dt.20-7-2000 issued by the Secretary, A.P.R.E.I, Society Hyderabad is

clearly illegal, arbitrary, discriminatory, and subversive of Articles 14,16 & 21 of the Constitution of India and pass

Counsel for the Petitioner: MR.P.NARASIMHA

Counsel for the Respondent Nos.1 and 2: MR.VIJAYA BHASKAR MOOLA , S.C. for A.P.R.E.I.S.

Counsel for Respondent Nos.3 and 4 : Government Pleader for Municipal Administration

CONTEMPT CASE NO : 256 of 2004

(Contempt Case U/s. 10 to 12 of Contempt of Courts Act to punish the Respondents herein for violating, disobeying the Order of the High Court dated 6.11.2003 in WPMP No.16351 of 2003 in WP No. 13173 of 2003

Between:

P.S Sundar Raju S/o Raju
A.P.R School (BC Boys) Pennahobilam ,
P.G.T.(Social) Uravakonda Anantapur Dist.

..... PETITIONER

AND

R.Satyanarayana
A.P Residential Educational Institutions Socities , Hyderabad.
(other respondents are not necessary)

.....RESPONDENT

Counsel for the Petitioner: MR.P.NARASIMHA

Counsel for the Respondent : MR.VIJAYA BHASKAR MOOLA

The Court made the following :

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ORAL ORDER:

Heard the learned counsel for both the parties.

The petitioner is working as P.G. Teacher in the 2nd respondent-A.P. Residential School, Pennahobilam, Anantapur District. He has filed this writ petition for implementation of the orders of the Government in G.O.Rt.No.206 Municipal Administration & Urban Development (G2) Department, dated 20.2.2003 issued by the 3rd respondent. It is stated in the said order that the petitioner made a representation to transfer him from A.P. Residential School, Pennahobilam, Ananthapur District to Ananthapur Municipality. The Director of Municipal Administration, Hyderabad forwarded the said application to consider the petitioner's case to transfer him to Ananthapur Municipality. Accordingly, the Government issued orders to transfer the petitioner from A.P. Residential School,

Pennahobilam, Ananthapur District to Ananthapur Municipality in relaxation of the earlier Government Orders and instructions with a condition that the petitioner shall take last rank in Ananthapur Municipality. Pursuant to the said order, the Director of Municipal Administration and A.P., Hyderabad passed an order dated 4.3.2003 requesting the 1st respondent-Secretary, A.P. Residential Educational Institutes Society, Hyderabad as well as the Ananthapur Municipality to relieve and admit the petitioner as per the order of the Government. As the said orders have not been implemented, the petitioner has filed this writ petition.

This Court, while admitting the writ petition, granted interim direction on 6.11.2003 in W.P.M.P.No.16351of 2003 directing the respondents to relieve the petitioner forthwith pursuant to the orders of the Government and the consequential order issued by the Director of Municipal Administration without insisting upon his resignation on the ground that under identical circumstances, the case of one Smt.M.Nirmala was considered vide proceedings, dated 20.7.2000. As the said interim direction was not implemented, the petitioner has filed C.C.No.256 of 2004. This Court, while admitting the Contempt Case by an order, dated 5.7.2004 dispensed with the presence of the respondents. The order passed by this Court on 5.7.1004 in the Writ Petition as well as the Contempt Case reads as

follows:

> *"The 3rd respondent passed an order dated 20.2.2004 in G.O.Rt.No.206, MA & UD permitting the Director of Municipal Administration, Hyderabad to effect the transfer of the petitioner, a post graduate teacher of A.P. Residential School (BC Boys), Pennahobilam of Ananthapur District to the Anantapur Municipality. The petitioner is a member of the service of the A.P. Residential Schools, which is a separate entity from the Anantapur Municipality.*
>
> *There is no apparent instrument permitting transfers from the residential schools to the municipality or vice-versa.*
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> *The respondent appears to have no manner of power, authority or jurisdiction over the affairs of the residential schools.*
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> *In the circumstances, the 3rd respondent is directed to file an affidavit clarifying under what authority, the order in G.O.Rt.No.206, MA & UD were passed enabling transfer of the petitioner from the residential schools to the Anantapur Municipality. Counter affidavit shall be filed by next date of hearing. List on 19.7.2004.*
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> *Copy of this order shall be communicated to the 1st respondent and a copy shall also be furnished to the learned Government Pleader for Municipal Administration".*

Pursuant to the said order of this Court, the Government realised its mistake and also while considering the representation dated 9.4.2004 of the 1st respondent and the proceedings of the Commissioner and Director of Municipal

Administration, dated 7.6.2004, the Government issued an order in G.O.Rt.No.847 Municipal Administration and Urban Development (G2) Department, dated 7.8.2004 which reads as follows:

1. *In the G.O. first read above, the Commissioner and Director of Municipal Administration, Hyderabad has been permitted to effect the transfer of Sri P.R.Sunder Raju, P.G.Teacher, Andhra Pradesh Residential school, Pennahobilam, Ananthapur District to Ananthapur Municipality in terms of para 2(v) in G.O.Ms.No.767 Finance (W&M) Department dated 21.8.2002 and in relaxation of revised instructions issued in Memo No.2361/N2/2001-1 Municipal Administration, dated 25.2.2002.*
2. *In the reference 2nd read above, the Secretary, Andhra Pradesh Residential Educational Institution Society (Regd.) Hyderabad reported that no lien will be sanctioned to him in the Society and he has to resign in the Society service before accepting service elsewhere. The same was informed to him also. The Hon'ble Minister for School Education and Chairman of the Society did not accept the request of the incumbent for relief without tendering his resignation. The Secretary, Andhra Pradesh, Residential Educational Institution Society subsequently has requested to cancel the orders issued in the G.O. 1st read above.*
3. *In the reference 3rd read above, the Commissioner and Director of Municipal Administration has also requested the Government to cancel the orders issued in G.O. 1st read above.*
4. *Government after careful consideration of the*

proposal, hereby cancel the orders issued in G.O. 1st read above with immediate effect, as the transfer is between two different services.

5. *The Commissioner and Director of Municipal Administration, Hyderabad shall take necessary action in the matter accordingly."*

As the orders in G.O.Rt.No.206, dated 20.2.2003 have been cancelled by the Government and the said order is not in force, the question of implementing the said order does not arise. The petitioner has not questioned the Government Orders in G.O.Rt.No.847, dated 7.8.2004 in cancelling the orders in G.O.Rt.No.206, dated 20.2.2003.

In view of the aforesaid G.O.No.847, dated 7.8.2004, this writ petition has become infructuous and it is accordingly dismissed giving liberty to the petitioner to question the said Government Order. As the writ petition is dismissed as infructuous, the Contempt Case does not survive and it is accordingly dismissed. No order as to costs.

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(V.ESWARAIAH,J.)

20th September, 2004.
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To

1 The Secretary,A.P.Residential Educational Institution Society
Hyderabad.
2 The Principal, A.PR.School (BC Boys)
Peannabobilam, Anantapur Dist.
3 The Principal Secretary, Municipal Administration & Urban Development Department, The Government of A.P. Secretariat, Hyderabad.
4 The Municipal Commissioner
Anantapur Municipality, Anantapur, Ananthapur District
5 Two C.D. copies
6 Two C.Cs. to the Government Pleader for Municipal Administration, High Court Building, Hyderabad (OUT)

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